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**IN THE  
COURT OF APPEALS OF INDIANA**

LEA D. DAULTON,

Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 36A04-0701-CR-50

APPEAL FROM THE JACKSON CIRCUIT COURT  
The Honorable William E. Vance, Judge  
Cause No. 36C01-0308-FA-35

**April 17, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**NAJAM, Judge**

## **STATEMENT OF THE CASE**

Lea Daulton appeals her convictions for Dealing in Methamphetamine, as a Class A felony (dealing), and Dealing in Methamphetamine, as a Class B felony (manufacturing), following a jury trial. Daulton presents the following issues for our review:

1. Whether the trial court provided a sufficient record of her trial to afford meaningful appellate review.
2. Whether the trial court abused its discretion when it admitted evidence obtained pursuant to a telephonic search warrant.
3. Whether the trial court abused its discretion when it permitted the State to present testimony describing an interview with Daulton where an audiotape was unintelligible.
4. Whether the State presented sufficient evidence to support her convictions.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

On July 31, 2003, after police had arrested James Cain for possession of methamphetamine, Cain told the officers that he had obtained the methamphetamine from Fran Pearson at Daulton's residence within the past twenty-four hours. As a result, officers obtained a search warrant for Daulton's residence in Seymour. When officers executed the warrant, a guest named Vasco England let them inside. Officers observed Daulton both in her bedroom and in the kitchen during the course of the search.

In Daulton's bedroom, officers found a black "Harley Davidson" purse with four plastic baggies inside that were later determined to contain methamphetamine. While searching the bedroom, officers also found Sudafed pills, a "drug ledger," digital scales, a

glass pipe, coffee filters, and a hollowed-out light bulb. Transcript at 115. In sheds located on Daulton's property, officers found: methamphetamine; pseudoephedrine; red phosphorous and iodine; coffee filters, both unused and with pink residue; paper towels with acid burn marks; two cans of butane, half-full; starter fluid; cloth gloves; metal jar lids and canning jars; a plastic funnel with red stains on it; pliers; a syringe; plastic tubing; hotplates; anti-freeze; hydrogen peroxide; acetone; duct tape; paper plates; rubber gloves; plastic sheeting; two compressed gas cylinders; and receipts showing purchases of ingredients and devices used in the manufacture of methamphetamine. Bradley Morrin, a drug chemist with the Indiana State Police, concluded that those items were used in the manufacture of methamphetamine and that Daulton's residence contained a methamphetamine lab. Officers collected a total of 6.88 grams of methamphetamine from Daulton's residence.

Seymour Police Department Detective Carl Lamb interviewed Daulton, who admitted that she lived at the residence where the search warrant was executed and that she sells and uses methamphetamine. Daulton told Detective Lamb that Fran Pearson was manufacturing methamphetamine in her shed. Daulton stated that Pearson gave her methamphetamine in exchange for the use of her shed.

The State charged Daulton with two counts of dealing in methamphetamine, one as a Class A felony (dealing) and the second as a Class B felony (manufacturing). Daulton filed a motion to suppress the evidence officers obtained pursuant to the search warrant, but the trial court denied that motion following a hearing. A jury found Daulton

guilty as charged, and the trial court entered judgment and sentence accordingly. This appeal ensued.

### **Issue One: Record of Proceedings**

Daulton's first claim of error is that the trial court did not provide a sufficient record of the proceedings to afford meaningful appellate review. In particular, Daulton contends that the transcript contains "more than 625 inaudibilities [sic]" which allegedly "handicapped" her in preparing her appellate brief. Brief of Appellant at 10. But Daulton does not provide us with a single citation to the record in support of her contention, see Ind. Appellate Rule 46(A)(8)(a), nor does she explain whether single words or whole sentences are missing from the transcript. Indeed, Daulton does not allege any specific harm. She asserts, generally: "A transcript is in no doubt relevant, for it can stand to call into serious question the factual predicate upon which the lower court relied in deciding the case, as well as to preserve, for the right of appeal, the claims of Daulton." Brief of Appellant at 10. Daulton does not claim that any specific issue is inadequately preserved as a result of the transcript omissions. The issue is waived.

### **Issue Two: Search Warrant**

Daulton next contends that the trial court abused its discretion when it admitted evidence obtained pursuant to the search warrant. Although she originally challenged the admission of the evidence through a motion to suppress, Daulton appeals following a completed trial and challenges the admission of such evidence at trial. "Thus, the issue is . . . appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial." Washington v. State, 784 N.E.2d 584, 587 (Ind. Ct. App. 2003).

However, it is well settled that a trial court's denial of a motion to suppress is insufficient to preserve error for appeal. Id. at 586. Rather, the defendant must make a contemporaneous objection to the admission of evidence at trial. Id. Here, the State asserts that Daulton failed to make contemporaneous objections with regard to any of the challenged evidence, and Daulton does not contradict that assertion. As such, the issue is waived. See id.

### **Issue Three: Best Evidence Rule**

Daulton next contends that the trial court abused its discretion when it permitted Detective Lamb to testify regarding his interview with Daulton. That interview had been tape-recorded, but the recording was inaudible. When Detective Lamb began to testify regarding what Daulton had stated during that interview, Daulton objected on hearsay grounds.

For the first time on appeal, Daulton alleges that the best evidence rule applies here and prohibits Detective Lamb's testimony. In particular, Daulton maintains that the best evidence rule "requires that the terms of an offered document be proven by the production of the document itself[.]" Brief of Appellant at 14. Because Daulton argues different grounds on appeal than she did to the trial court, the issue is waived. See Lehman v. State, 730 N.E.2d 701, 703 (Ind. 2000) (holding defendant waived best evidence rule argument where asserted different ground for objection to trial court).

### **Issue Four: Sufficiency of the Evidence**

Finally, Daulton contends that the State presented insufficient evidence to support her convictions. When reviewing the claim of sufficiency of the evidence, we do not

reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To prove dealing in methamphetamine, as a Class A felony, the State was required to prove that Daulton possessed, with the intent to deliver, at least three grams of methamphetamine. Ind. Code § 35-48-4-1(b). To prove dealing (manufacturing) in methamphetamine, as a Class B felony, the State was required to prove that Daulton knowingly or intentionally manufactured methamphetamine. Ind. Code § 35-48-4-1(a). Intent, being a mental state, can only be established by considering the behavior of the relevant actor, the surrounding circumstances, and the reasonable inferences to be drawn therefrom. Richardson v. State, 856 N.E.2d 1222, 1227 (Ind. Ct. App. 2006), trans. denied. Circumstantial evidence showing possession with intent to deliver may support a conviction. Id. Possessing a large amount of a narcotic substance is circumstantial evidence of intent to deliver. Id. The more narcotics a person possesses, the stronger the inference that he intended to deliver it and not consume it personally. Id. Circumstantial evidence of the production of methamphetamine can support a conviction for manufacturing methamphetamine. See Bush v. State, 772 N.E.2d 1020, 1023 (Ind. Ct. App. 2002), trans. denied.

The State presented overwhelming evidence that Daulton's residence was being used as a methamphetamine lab, and officers found 6.88 grams of methamphetamine during their search. Each of Daulton's contentions on this issue amounts to a request that we reweigh the evidence, which we will not do.<sup>1</sup> The State presented sufficient evidence to support Daulton's convictions.

Affirmed.

SHARPNACK, J., and DARDEN, J., concur.

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<sup>1</sup> Again, Daulton contends that the evidence obtained pursuant to the search warrant should have been excluded and that, therefore, the evidence is insufficient to support her convictions. But because we hold that the issue of the validity of the search warrant is waived, we need not address that contention.